IN THE HIGH COURT OF CHHATTISGARH AT BILASPUR (CG)

M.A.NO.335/2002

APPELLANTS CLAIMANTS :

1) Ramkunwar, W/o. Late Ramdhari, aged about ~~37~~ 42 yrs,

2) Chandramani, D/o. Late Ramdhari, aged about ~~17~~ 22 yrs,

3) Ramesh S/o. Late Ramdhari, aged about ~~15~~ 20 years,

4) Umesh S/o. Late Ramdhari, aged about ~~13~~ 18 years,

~~Appellants No. 2 to 4 Minors, Through : Guardian (Mother) i.e. Appellant No.1,~~

All are residents of village - Ghatpendari, Police Station - Pratappur, Distt. Surguja (CG).

VERSUS

RESPONDENTS NON-APPLICANTS RS :

1) M/s Durga Motor Service, Bus Stand, Ambikapur, Through : Owner Bijendra Kumar, aged about 44 years, R/o. Old Bus Stand, Ambikapur, Distt. Surguja (C.G.).

(OWNER)

RS 2) Kailash, S/o. Beegam Paneri, aged about 44 years, Driver, R/o. Bartikala, Police station-Chalgali, Distt. Surguja (CG)

(DRIVER)

...02

3)S New India Insurance Co. Ltd.
Through : Branch Manager,
Daltanganj, District - Daltan
Ganj, Bihar.

(INSURER)

APPEAL UNDER SECTION 173 OF THE MOTOR VEHICLE ACT, 1988

XI-HC—78

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

मामला क्रमांक M.A. No. 335/2002 सन् 200

आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अंतिम आदेश

Division Bench :

HON'BLE SHRI FAKHRUDDIN, Ag. C.J.
& HON'BLE SHRI SUNIL KUMAR SINHA, J.

07-02-2005.

Shri Ashok Kumar Shukla, counsel for the appellants.

Shri Anand Kumar Gupta, counsel for respondent No.3/ Insurance Company.

Heard on I.A. No.331 of 2005 which is an application under Order 32 Rule 12 of the Code of Civil Procedure.

Learned counsel for the appellants submits that appellants 2, 3 and 4 were minor at the time of filing of the claim petition. However, they have attained majority by efflux of time. He prays for correction of the cause-title of the memo of appeal.

I.A. No.331 of 2005 is allowed. Learned counsel for the appellants is permitted to correct the cause-title of the memo of appeal.

Heard.

This appeal under Section 173 of the Motor Vehicle Act, 1988 has been preferred by the appellants/Claimants for enhancement of the quantum of award passed by the learned Claims Tribunal.

In this case, the rash and negligence on the part of the respondents is not in dispute.

Learned counsel for the parties submit that an award of Rs.1,64,000/- was passed in favour of the appellants. However, during the pendency of the present appeal a compromise has been arrived at by the parties and an additional amount of Rs.60,000/- has been agreed to be paid to the appellants/claimants. A document to this effect has also been filed. It is also agreed by both the parties that the amount due shall be paid

XI-HC—78

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

M.A.No.335/2002

मामला क्रमांक ..... सन् 200

आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश -2-	कार्यालयीन मामलों में डिप्टी रेजिस्ट्रार के अंतिम आदेश

within a period of two months from today and in view of the aforesaid compromise, the appellants do not want to prosecute the appeal.

We have gone through the records. The enhanced figure worked out on compromise appears to be just and proper.

In this view of the matter, it is directed that the appellants/claimants shall get total sum of Rs.2,24,000/- as compensation and, therefore, the award passed by the learned Claims Tribunal is modified to the extent indicated above. In other words, the appellant would get a sum of Rs.60,000/- over and above what has been already awarded by the learned Claims Tribunal. It is made clear that if the amount due is not paid to the appellants as per the compromise arrived at by the parties within a period of two months from today, the appellants shall be entitled to charge interest @ 9% per annum from the said date till its realization. The direction in relation to apportionment, if any, given in the award shall also apply to the enhanced amount.

The appeal stands disposed of in terms of compromise arrived at by the parties.

We, however, very much appreciate the efforts made by learned counsel for the parties.

Counsel's fee as per rules.

Let Certified copy be given after correction of the cause-title only as per rules.

Sd/-
Acting Chief Justice

Sd/-
Sunil Kumar Sinha
Judge

BM